

AGENDA

MILWAUKIE CITY COUNCIL APRIL 6, 2004

MILWAUKIE CITY HALL
10722 SE Main Street

1931ST MEETING

REGULAR SESSION - 6:30 p.m.

I. CALL TO ORDER
Pledge of Allegiance

II. PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

- A. Outstanding Project Award for Ledding Library Ready to Read Grant Project for 2002 – 2003 (Cynthia Sturgis & MaryKay Dahlgreen, Youth Services Consultant, Oregon State Library)**
- B. POW Recognition Day in Oregon -- Proclamation**

III. CONSENT AGENDA *(These items are considered to be routine, and therefore, will not be allotted Council discussion time on the agenda. The items may be passed by the Council in one blanket motion. Any Council member may remove an item from the "Consent" portion of the agenda for discussion or questions by requesting such action prior to consideration of that portion of the agenda.)*

- A. City Council Minutes of March 16, 2004**
- B. Amendment to Intergovernmental Agreement with Clackamas County for King/37th/40th Avenue Improvement Project**
- C. Operations Building/Rigid Steel Building Package**

IV. AUDIENCE PARTICIPATION *(The Mayor will call for statements from citizens regarding issues relating to the City. It is the intention that this portion of the agenda shall be limited to items of City business which are properly the object of Council consideration. Persons wishing to speak shall be allowed to do so only after registering on the comment card provided. The Council may limit the time allowed for presentation.)*

V. PUBLIC HEARING *(Public Comment will be allowed on items appearing on this portion of the agenda following a brief staff report presenting the item and action requested. The Mayor may limit testimony.)*

None scheduled

VI. OTHER BUSINESS *(These items will be presented individually by staff or other appropriate individuals. A synopsis of each item together with a brief statement of the action being requested shall be made by those appearing on behalf of an agenda item.)*

Amend the Low Income Utility Rate Provisions of the Municipal Code – Ordinance (Steve Smith)

VII. INFORMATION

Library Board Minutes

VIII. ADJOURNMENT

Public Information

- Executive Session: The Milwaukie City Council will go into Executive Session pursuant to ORS 192.660(1)(f) – exempt public records.

All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions as provided by ORS 192.660(3) but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

- For assistance/service per the Americans with Disabilities Act (ADA), please dial TDD 503.786.7555
- The Council requests that all pagers and cell phones be either set on silent mode or turned off during the meeting.

PROCLAMATION

WHEREAS, throughout our history over 125,000 men and women have made the uncommon sacrifice of relinquishing their freedoms so we might enjoy the blessings of peace and liberty. In fulfilling their duty as citizens of the United States, they have defended American ideals while suffering unimaginable indignities under the control of hostile powers; and

WHEREAS, it is unfortunate to note that the many injuries suffered by these men and women while being held captive are considered to be the result of war crimes and not the legal acts of war, a distinction which currently denies many former POWs due recognition and compensation for such injuries. Nevertheless, these former Prisoners of War remain steadfast in their belief that the principles of justice upon which our country was founded, and for which they fought, will eventually prevail; and

WHEREAS, we join with these former POWs in their present battle for recognition for what is rightfully theirs and dedicate ourselves to a future in which they can remain firm in the conviction that their sacrifices were not made in vain;

NOW, THEREFORE, I, James Bernard, hereby proclaim April 9, 2004, as

POW Recognition Day

In the City of Milwaukie, and urge all citizens to honor these men and women by observing this day with appropriate ceremonies and activities.

James Bernard, Mayor

ATTEST:

Pat DuVal, City Recorder

MINUTES

MILWAUKIE CITY COUNCIL WORK SESSION MARCH 16, 2004

Mayor Bernard called the work session to order at 5:30 p.m. in the City Hall Conference Room.

Councilors present: Barnes, Lancaster, and Stone.

Staff present: City Manager Mike Swanson, City Attorney Gary Firestone, Community Development and Public Works Director Alice Rouyer, and Project Manager Jeff King.

North Main Project Update

Community Development and Public Works Director Alice Rouyer and **Project Manager Jeff King** provided an update on the North Main project and introduced Tom Kemper, a new partner with Rossman on the project team.

Kemper and **Mike Rossman** briefly described their experiences in real estate and development.

Mayor Bernard provided Kemper with a list of people interested on condos.

Rouyer said the purpose of the update was to introduce the new partner in the project. Kemper will take the lead, and project team meetings will begin this week. She reviewed a list of Kemper's projects that included Center Commons at 60th and Glisan, The Hawthorne project at 34th and Hawthorne, Esther Short Commons in Vancouver, Killingsworth Station, and Cascade Crossing at 105th and Burnside. Construction is anticipated to begin spring 2005 with outreach this spring and summer.

Kemper discussed the timelines, community involvement, and financing.

Mayor Bernard commented that the McLoughlin Boulevard project should begin construction at about the same time.

The group agreed meet at City Hall at 5:30 p.m. on April 12 to tour several of Kemper's projects.

Councilor Stone asked if these projects were a mix of affordable housing and condominiums for sale.

Kemper said Center Town Homes is a combination of affordable market and town homes for sale. Hawthorne is high-end town homes over retail. Esther Short is a combination of affordable and market units and rental over retail. The Portland Development Commission (PDC) just awarded him the Killingsworth Station project, and it will be a combination of affordable rental loft condos and town homes for sale. Cascade Crossing is an affordable rental development with a commercial element on light rail near Mall 205. He discussed the design of that project.

Mayor Bernard thought the condos in the previous plan were relatively inexpensive. He feels \$150,000 to \$180,000 is a good range in Milwaukie. This community has an aging population, and, though townhouses are great, stairs could be a problem.

Kemper said unfortunately this would probably not be housing for aging residents. It is being planned with a retail element on Main Street with the larger building perpendicular to Main. Town homes will be built over the retail and on the Harrison Street side. There will be two rows of ten units with a live/work element. These will be 3-story with a small office fronting Harrison that could be rented separately. The walkway through the property will be retained as a pedestrian-oriented auto court through the site that provides access from Main Street to the library. It will also serve as garage access for the town home element. Some of the town homes will be affordably priced at \$135,000 to \$140,000 and others will be more in the \$180,000 to \$190,000 range. The town homes in the front will be about 900 square feet with a loft element. The purpose is to keep the price point down, so the project is attractive to younger people.

Councilor Stone asked if the retail space would be large enough to accommodate a grocery store. This town needs a grocery store for the people living here.

Kemper said there would not be enough parking space for a grocery store.

Councilor Stone was downtown over the weekend and saw the Safeway renovation on Park Avenue. She thought the design was great and really improved that block.

Kemper said the parking on that site is underground and noted PDC put a lot of money into the project. There are 2 or 3 levels of underground parking that supports not only the market but also the housing upstairs. There is a huge difference between parking rates in downtown Portland and downtown Milwaukie unless the City wants to cover the expense of underground parking. This may be possible after some synergy is built up. The goal of this project is to build something that will be popular and sell quickly. The space could probably house a convenience market. He was not sure the demographics would support something like a Trader Joe's.

Councilor Stone said demographics is why things are the way they are in Milwaukie. We need to change that. She has a hard time believing that they can use that as their trump card for not coming here. We have 99E that serves lots of traffic and people. She is sure people would stop if there were a Trader Joe's. She goes out of her way to shop at a Trader Joe's.

Kemper said a demographic 1 - 3 mile ring will not indicate the amount of traffic going by. He thinks it is difficult for someone driving south on their way home to navigate off 99E and back on to shop at a Trader Joe's when there are other market options.

Councilor Stone said it is not difficult to get off 99E.

Rouyer said the Downtown Plan shows a grocery store on the other side of Main Street that would have better visibility from McLoughlin Boulevard than this site. She and others think Safeway did not succeed in that location because of poor visibility.

Councilor Stone believes Safeway just let the store go. It fell apart, and they were not keeping up with Albertson's new store.

Kemper commented Albertson's is on Hwy. 224, so it probably got all the business that had been going to Safeway.

Councilor Stone said that Safeway store was never renovated to improve and keep service going.

Rouyer added there is a new Safeway going in at 42nd Avenue and King Road.

The group agreed the tour of Kemper projects would be on April 12 at 5:30 p.m.

Mayor Bernard recessed the City Council work session at 5:55 p.m. and announced the Council would meet in executive session pursuant to ORS 192.660(1)(f) – exempt public records.

The City Council reconvened the work session at 6:10 p.m. and discussed board and commission appointments. **Mayor Bernard** announced his intent to appoint Leslie Schockner to the Budget Committee and directed staff to arrange interviews for all those board and commission members who are seeking reappointment. The group discussed options for making appointments prior to the Budget Committee meeting on April 7.

The work session adjourned at 6:15 p.m.

Pat DuVal, Recorder

MINUTES

MILWAUKIE CITY COUNCIL MARCH 16, 2004

CALL TO ORDER

Mayor Bernard called the 1930th meeting of the Milwaukie City Council to order at 6:30 p.m. in the City Hall Council Chambers. The following Councilors were present:

Council President Lancaster
Councilor Deborah Barnes

Councilor Susan Stone

Staff present:

Mike Swanson,
City Manager
Gary Firestone,
City Attorney
Alice Rouyer,
Community Development/Public
Works Director

Larry Kanzler,
Police Chief
Mary Rowe,
Human Resources Director

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

Outstanding Milwaukie High School Student Recognition

Councilor Barnes announced the new program in which the City Council recognizes a Milwaukie High School student each month for his/her outstanding commitment to the community and school. By doing this, the City Council hopes to encourage more young citizens to take action in making their neighborhoods and schools better places and to enhance the City's relationship with its high school.

At this meeting, Council recognized Emily Klain who was recommended by her principal, Aeylin Summers. Emily is an honor student in advanced placement classes, a member of the National Honor Society, Students against Destructive Decisions (SADD) and Oregon Student Safety on the Move (OSSUM). She is a youth advisor at her synagogue and studied in Israel for a year during which time she maintained a 4.0 GPA.

Councilor Barnes expressed Council appreciation to Emily's parents and Dr. Summers for their support.

CONSENT AGENDA

It was moved by Councilor Barnes and seconded by Councilor Stone to approve the Consent Agenda that consisted of:

- A. City Council minutes of March 2, 2004; and**
- B. OLCC Application for the Harrison Street Arco & Mini Mart, 4140 SE Harrison Street, Change of Ownership.**

Motion passed unanimously among the members present.

PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

Ledding Library Facility Plan

Pat Healey, Facility Planning Committee Co-Chair, and **Tom Hogan**, Ledding Library Board Chair, updated the City Council on the Plan. The Ledding Library Board, staff, and community members presented a long-range plan for library services to the City Council in spring 2001. One of the recommendations was to address expansion or relocation needs to meet Oregon Library Association minimum space requirements for public libraries.

The Library Facility Plan Committee convened in January 2002 with the assistance of a consultant hired with the approval of the City Council. Dallas Young Shaffer, consultant, worked with the group for several months and provided a space needs report to the year 2025 with an estimated population of 28,000. A functional analysis was prepared which provided a clearer idea of what specific features would be needed in an expanded library. City staff indicated the present building could be expanded north, south, and west.

Through the entire process, the Committee worked with June Mikkelsen, Renovations Manager for the Multnomah County Library System. Architect Rob Dortignacq, who has extensive experience in library design and cost estimating, considered the space needs and design goals and developed a master plan. Keeping adequate parking at the site plus adding 26,000 square feet to the current building were high priorities. The approximate construction cost for the proposed expansion is \$2.8 million. The design phase will cost about \$50,000.

The Committee has decided not to begin fundraising at this time because of the weak economy, but a foundation is being setup to facilitate fundraising at the appropriate time. Articles of incorporation and bylaws have been prepared, and the group is currently seeking legal advice on the process.

Mayor Bernard asked if the Friends of the Library were a 501C3 organization.

Healy said fundraising on this level was found to be beyond the Friend's scope, and that it was best to form a foundation.

Councilor Barnes noted there were a lot of foundations forming and suggested pulling them together rather than reinventing the wheel.

Mayor Bernard commented foundations are typically very focused.

Hogan underlined Healy's comments and was happy to be at the meeting. The purpose of this presentation was to update the City Council and answer any questions.

Councilor Stone understood the proposed estimate for the remodel was \$2.8 million in today's dollars although the study was done a few years ago.

Healy explained Dortignacq had done the cost estimate recently.

Councilor Stone asked the costs involved with hiring the consultant Dallas Shaffer and seeking advice from Mikkelson.

Healy said Mikkelson provided advice at no charge. He did not have the figures on Shaffer, but he knew her fees were reasonable for what she provided. She came to Milwaukie 2 or 3 times.

Mayor Bernard said when he was involved they were looking at construction of a new library and interviewed a number of people to get a cost estimate.

AUDIENCE PARTICIPATION -- None

PUBLIC HEARING -- None

OTHER BUSINESS

City Manager Performance Review and Compensation

Human Resources Director Mary Rowe said there have been a number of Council discussions in executive session regarding the city manager's performance review and contract renewal. A copy of the proposed employment agreement was attached to the staff report available at this meeting.

Input was gathered Council and staff that resulted in an outstanding performance review by the City Council. It was noted the City has employed Swanson for two and one-half years. At each of his annual performance reviews, Swanson received an outstanding rating, but due to budget situations he has not received a merit increase during that time. As a result there was a recommendation for a 3% cost of living adjustment to be put in place immediately and is actually a make up to a cost of living increase received by other employees in July 2002. There was also a lump sum merit increase of \$4,500

CITY COUNCIL REGULAR SESSION – MARCH 16, 2004

APPROVED MINUTES

Page 3 of 6

renewable annually at the time the mutually accepted contract renewal based on Swanson's performance. Administrative leave hours are proposed to be increased to 96 hours annually.

Councilor Stone had a question regarding the \$4,500 lump sum merit bonus. She did not understand it would be automatically renewed every year. She also did not understand it would be done in February. She thought his contract was in line with the fiscal year.

Rowe understood, and confirmed with Firestone and Councilor Lancaster as the Council's designee for negotiating with Swanson, that the wording developed was that the lump sum was renewable at the time of contract renewal contingent upon successful performance by Swanson. It is not automatic in that sense. It is up for renewal at Council's discretion at the time of the contract. The contract was originally signed in September and would have expired this coming September. There was also some discussion of changing the renewal date of the contract to February to more closely align it with the time of Swanson's actual performance review.

Councilor Barnes also understood the \$4,500 was a bonus for this year and would be renegotiated with each contract.

Councilor Lancaster added it also serves as a maximum cap for any performance bonus dependent upon performance.

Mayor Bernard said there seems to be a question about the wording.

Councilor Stone said there is nothing mentioned about being contingent upon performance.

Councilor Lancaster said the bonus would be subject to performance review.

Councilor Stone would feel better about adding that clause. She does not think bonuses are automatically given. In terms of how she thinks about a bonus, one does not always expect one annually. One would expect a bonus to be based on fiscal performance of the company. There are a lot of things that enter into giving someone a bonus. She would definitely like to have the wording change to being "contingent upon performance and the City's fiscal ability to do so."

Councilor Barnes agreed the City's financial standing should be taken into account.

Rowe suggested language referring to performance and business necessity.

Councilor Lancaster understood but hesitated because the language implies the need to somehow define what economic viability of the City is.

Councilor Barnes said it is the same for the City as a company. It makes the decision based on the employee and availability of funds to give bonuses.

Firestone suggested language in Section 4 that reads, “and shall pay an additional bonus not to exceed \$4,500 subject to performance review and budget considerations.”

Swanson assumed the bonus was performance based, and this language clarifies it.

Councilor Stone asked if the amount could be changed.

Firestone said the contract could always be amended.

It was moved by Mayor Bernard and seconded by Councilor Barnes to approve the terms as stated in the draft contract subject to the amendments recommended by the City Council. Motion passed unanimously among the members present.

Authorization for City Manager to Designate Leave Allowances

Rowe presented the staff report in which the City Council was requested to authorize the city manager to set administrative leave allowances for management employees per his discretion as to what is appropriate and commensurate with their work. The City Council indicated it wished to delegate the authority to the city manager.

It was moved by Councilor Barnes and seconded by Councilor Stone to authorize the city manager to set administrative leave allowances for management employees per his discretion as to what is appropriate and commensurate with their work. Motion passed unanimously among the members present.

Budget Committee Appointment

Mayor Bernard with the consent of Council appointed Leslie Schockner to vacant position #2 of Budget Committee.

Mayor Bernard announced the City Council would recess to go into executive session under the authority of Oregon Revised Statutes 192.660(1)(c) -- Performance Evaluations of Public Officers Employees and 192.660(1)(d) – Labor Negotiator Consultations.

The City Council recessed the regular session at 6:55 p.m. and reconvened at 8:12 p.m.

ADJOURNMENT

It was moved by Councilor Stone and seconded by Councilor Barnes to adjourn the meeting. Motion passed unanimously among the members present.

Mayor Bernard adjourned the regular session at 8:15 p.m.

Pat DuVal, Recorder



To: Mayor and City Council

Through: Mike Swanson, City Manager
Alice Rouyer, Community Development/Public Works Director

From: Paul Shirey, Engineering Director
Paul Roeger, Civil Engineer

Subject: First Amendment of the Intergovernmental Agreement (IGA)
with Clackamas County for King/37th/40th Avenue Improvement
Project

Date: March 19, 2004 for the April 6th City Council Meeting

Action Requested

Authorize the Mayor to sign the first amendment to a current IGA with Clackamas County for the design and construction of the King Road/Harvey Street/40th Avenue Street and Storm Improvements Project in the Ardenwald neighborhood. The amendment increases project funding and amends the scope of the project.

Background

This amendment does four things:

- Changes the project limits to exclude Harvey St. and substitute 37th Avenue
- Combines two smaller projects into one major project.
- Adds \$245,000 to the original grant of \$295,000.
- Adds \$28,000 for frontage improvements at Lewelling Park.

The City applied for and received a Clackamas County Community Development Block Grant (CDBG) in 2001 to complete improvements to various streets in the Ardenwald neighborhood. The original scope of the project was to complete curb, sidewalk, and storm improvements to portions of King Road, Harvey and

40th Streets. Due to trees and other obstacles in the right of way along Harvey Street, the County and City agreed that curb and sidewalk improvements on 37th Avenue from Harvey Street to King Road could be constructed with less impact and greater benefit to the neighborhood.

Last fall Clackamas County Community Development with input from City staff selected Wallis Engineering to complete project design.

The City applied for additional funds in 2003 to add sidewalk improvements at the 37th Avenue railroad crossing and the Oak Street railroad crossing, and to complete some street, curb, and sidewalk improvements around Llewelling Park at Willow Street and Stanley Avenue. County staff concurred with the request for additional funds and changes in project scope.

Concurrence

Community Development, Engineering, and the City Attorney's Office have reviewed the proposed amendment to the IGA and support signing the amended IGA to be able to proceed with the construction of the project.

Fiscal Impact

The City was initially awarded \$295,000 in CDBG funding to design and construct the project. The award was increased in 2003 by an additional \$245,000 for the completion of the project. The City also received an additional \$28,000 to complete street, curb, and sidewalk on the street frontages of Llewelling Park, for a project total of \$568,000. Under the terms of the IGA, the City's local matching share requirement is the greater of:

1. Twenty percent (20%) of the total cost of the project, and
2. All costs for the design and construction that exceed the available \$568,000 in CDBG funding.

Engineering costs for design and inspection of the project are estimated to be \$135,000. The CDBG funds plus the City's 20% match, results in total available funds of about \$715,000. Initial construction cost estimates for all improvements is approximately \$865,000. City and County staff have directed the engineer to bid the project in four segments in order to be able to eliminate portions of the project if the actual bids exceed the dollars available. The project segments, in order of priority, are:

- A) 40th Avenue and King Road street, curb, sidewalk, and stormwater improvements
- B) Llewelling Park frontage improvements
- C) The two railroad crossings at 37th and Oak streets
- D) 37th Avenue street, curb, sidewalk and stormwater improvements

If bids come in high, as estimated by the engineer, 37th Avenue is a logical segment to cut from the project at this time. The 37th Avenue improvements may be the subject of a future request for CDBG funding and built if and when funding is secured.

Work Load Impacts

Clackamas County will manage both the design and construction of the project. A staff team from the Engineering and Community Development Departments will provide technical support and coordinate as necessary with the Clackamas county and local Milwaukie residents and representatives as necessary. The project is part of the work program for both departments. The tentative project schedule is as follows:

- | | |
|---------------------------|-----------------------------|
| 1. Project Planning | Jan 2003 to June 2003 |
| 2. Design and Engineering | July 2003 to April 2004 |
| 3. Bid Award | May 2004 to June 2004 |
| 4. Construction | July 2004 to September 2004 |

Alternatives

1. Approve the amendment as proposed.
2. Suggest revised amendments to the IGA.
3. Do not authorize the Mayor to sign the attached amendments to the IGA.

Attachments

1. Amendment to IGA between Clackamas County and the City.
2. Original IGA between Clackamas County and the City.

ATTACHMENT 1**Amendment to IGA w/ City of Milwaukie for Ardenwald Imps. Project
Department of Human Services**

DHS Contract Number: CD-22-02/03

Board Order Number: 013003-IIA2

Division: Community Development

Amendment No. 1

Contractor: City of Milwaukie

Amendment Requested By: Gary DiCenzo

Changes: (X) Scope of Services (X) Contract Budget
 () Contract Time () Other

Justification for Amendment:

There are two CDBG funded projects scheduled for the Ardenwald area within the City of Milwaukie. The City of Milwaukie (Public Works Community Development) has requested that Clackamas County (Community Development) combine the two smaller projects into one major project.

In addition to the above referenced major project, the City of Milwaukie has requested additional CDBG funding to improve Curbs and Sidewalks adjacent to Llewelling Park for improved community access.

CDBG funds for the three phases of projects:

1. Ardenwald Street and Drainage Improvements (2002):	\$295,000. <u>Original Agreement</u>
2. Ardenwald Street and Sidewalk Improvements (2003):	\$245,000. <u>2nd Project</u>
3. Llewelling Park Curb and Sidewalk Improvements:	\$ <u>28,000. Additional Work</u>
Total of CDBG funds:	\$568,000.

No General Fund dollars will be used.

AMEND: Paragraph I.B.

For Basic Services. This Agreement provides for the design and construction of curb, sidewalk and storm drainage improvements on Harvey Street, King Road and 40th Avenue within the Ardenwald neighborhood of the City of Milwaukie. The design and construction of these improvements are herein referred to as the PROJECT.

TO READ: Paragraph I.B.

For Basic Services. This Agreement provides for the design and construction of curb, sidewalk and storm drainage improvements on Harvey Street, King Road and 40th

Avenue. Construction of sidewalks along Oak Street, 36th Street and 37th Avenue. Repaving Harvey Street between 32nd and 42nd Avenues, and King Road between 37th and 42nd Avenues. The design and construction of these improvements are herein referred to as the PROJECT.

AMEND: Paragraph III.A.

The COUNTY will apply CDBG funds in the amount of 80% of the total cost of the PROJECT up to a maximum COUNTY contribution of \$295,000. The obligations of the COUNTY are expressly subject to the COUNTY receiving funds from HUD for the PROJECT, and in no event shall the COUNTY'S financial contribution exceed the amount finally granted, released and approved by HUD for this project.

TO READ: Paragraph III.A.

The COUNTY will apply CDBG funds in the amount of 80% of the total cost of the PROJECT up to a maximum COUNTY contribution of \$568,000. The obligations of the COUNTY are expressly subject to the COUNTY receiving funds from HUD for the PROJECT, and in no event shall the COUNTY'S financial contribution exceed the amount finally granted, released and approved by HUD for this project.

AMEND: Paragraph III.D.

In the event a construction contractor is entitled to payments for work completed after \$295,000 in CDBG funds have been expended, the COUNTY shall request a transfer of funds from the CITY for the amount necessary to make such payments.

TO READ: Paragraph III.D.

In the event a construction contractor is entitled to payments for work completed after \$568,000 in CDBG funds have been expended, the COUNTY shall request a transfer of funds from the CITY for the amount necessary to make such payments.

AMEND: Paragraph IV.

Brion Barnett will act as liaison from the CITY for the PROJECT. Chuck Robbins will act as liaison from the COUNTY.

TO READ: Paragraph IV.

Paul Roeger will act as liaison from the CITY for the PROJECT. Steve Kelly will act as liaison from the COUNTY.

IN WITNESS HEREOF, the parties hereto have caused the Amendment to be executed by its duly authorized officers.

CITY OF MILWAUKIE

CLACKAMAS COUNTY

Chair: Bill Kennemer
Commissioner: Larry Sowa
Commissioner: Martha Schrader

Signing on Behalf of the Board:

By: _____

Irene Fischer-Davidson, Director
Department of Human Services

Date

Date

**INTERGOVERNMENTAL AGREEMENT
BETWEEN**

**CLACKAMAS COUNTY DEPARTMENT OF HUMAN RESOURCES
COMMUNITY DEVELOPMENT DIVISION
AND
THE CITY OF MILWAUKIE**

I. Purpose

- A. This Agreement is entered into between Clackamas County, acting by and through its Community Development Division (COUNTY) and the City of Milwaukie (CITY) for the cooperation of units of local government under the authority of ORS 190.010.
- B. This Agreement provides for the design and construction of curb, sidewalk and storm drainage improvements on Harvey Street, King Road and 40th Avenue within the Ardenwald neighborhood of the City of Milwaukie. The design and construction of these improvements are herein referred to as the PROJECT.

II. Scope of Responsibilities

- A. Under this agreement the responsibilities of the CITY shall be as follows:
 - 1. At the request of the County, the CITY shall provide all necessary supervisory and administrative support to assist the COUNTY with the completion of the PROJECT.
 - 2. To the extent necessary the CITY shall obtain any easements or approvals necessary to allow access onto private property. At the time of execution of this Agreement, it is believed that no access onto private property will be necessary; City shall identify the boundaries of the Project area and the engineer and Contractor shall be required to advise City of any need for access beyond the Project area. Acquisition of any easement shall be obtained pursuant to the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA).
 - 3. The CITY shall pay all systems development, plan review, and inspection fees and charges within its control.
 - 4. The CITY shall operate and maintain the improvements for public purposes for their useful life subject to the limitations on the appropriation and expenditure of funds by the CITY as provided by Oregon Statute.

B. Under this agreement the responsibilities of the COUNTY will be as follows:

1. The COUNTY agrees to obtain necessary engineering design services and act as agent of the CITY for purposes of preparing plans and specifications, obtaining bids and contracting for all construction work. The COUNTY will receive written approval from the CITY prior to awarding any PROJECT contracts for design or construction, and any changes, modifications, or amendments as necessary to serve the public interest.
2. In such contracts the COUNTY will assume the rights and responsibilities of the owner of the project.
3. The COUNTY agrees to provide and administer available Community Development Block Grant (CDBG) funds granted by the U.S. Department of Housing and Urban Development (HUD) to finance the PROJECT.
4. The COUNTY shall conduct necessary environmental reviews described in 570.604 of the CDBG regulations for compliance with requirements of the CDBG program.
5. The COUNTY shall provide reasonable and necessary staff for administration of the PROJECT.

C. The COUNTY and CITY agree to jointly review and approve all design, material selection, and contract documents for the PROJECT.

III. Compensation

- A. The COUNTY will apply CDBG funds in the amount of 80% of the total cost of the PROJECT up to a maximum COUNTY contribution of \$295,000. The obligations of the COUNTY are expressly subject to the COUNTY receiving funds from HUD for the PROJECT, and in no event shall the COUNTY'S financial contribution exceed the amount finally granted, released and approved by HUD for this project.
- B. The CITY agrees to contribute the greater of:
1. Twenty percent (20%) of the total cost of the PROJECT, or
 2. All costs for design and construction which exceed available CDBG funds budgeted for the PROJECT.

INTERGOVERNMENTAL AGREEMENT
Clackamas County and the City of Milwaukie
Page 3

- C. In the event the PROJECT can not be completed with available funds the COUNTY and CITY will jointly determine the priorities of the improvements to be made within funding limits.
- D. In the event a construction contractor is entitled to payments for work completed after \$295,000 in CDBG funds have been expended, the COUNTY shall request a transfer of funds from the CITY for the amount necessary to make such payments.
- E. The CITY shall transfer all requested funds to the Community Development Division within fourteen (14) working days of the invoice by the COUNTY. All checks shall be made payable to Clackamas County and mailed to the following address:

Attn: Susan Troxell
Clackamas County Finance
9101 SE Sunnybrook Blvd.
Clackamas, OR 97015

IV. Liaison Responsibility

Brion Barnett will act as liaison from the CITY for the PROJECT. Chuck Robbins will act as liaison from the COUNTY.

V. Special Requirements

- A. The COUNTY and CITY agree to comply with all applicable local, state, and federal ordinances, statutes, laws and regulations.
- B. Subject to the limits of the Oregon Tort Claims Act, each of the parties agrees to hold harmless and indemnify the others, and their elected and appointed officials, agents, and employees, from and against all claims, demands, and causes of action of any kind or character, including the cost of defense thereof, arising on account of personal injuries, death or damage to property caused by or resulting from their own acts or omissions or those of their officials, agents and employees provided however, that once the CITY accepts the Project following the design and construction phases, it will assume all responsibility for claims made thereafter against the COUNTY or its officers, agents or employees pertaining to the design and construction of the Project, and will indemnify and defend them therefor.
- C. Record and Fiscal Control System. All payroll and financial records pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible. Such records and documents shall be retained for a period of three (3) years after receipt of final payment under this Agreement; provided that any

records and documents that are the subject of audit findings shall be retained for a longer time until such audit findings are resolved.

- D. Access to Records. The COUNTY, the State of Oregon and the Federal Government, and their duly authorized representatives shall have access to the books, documents, papers, and records of the CITY which are directly pertinent to the Agreement for the purpose of making audit, examination, excerpts, and transcripts.
- E. This Agreement is expressly subject to the debt limitation of the Oregon Constitution, and is contingent upon funds being appropriated therefor. Any provisions herein which would conflict with law are deemed inoperative to that extent. Obligations of the COUNTY are also expressly subject to the COUNTY receiving funds from HUD for this project and in no event shall the COUNTY's financial contribution exceed the amount finally granted, released and approved by HUD for this project.
- F. Conflict of Interest. No officer, employee, or agent of the CITY or COUNTY who exercises any functions or responsibilities in connection with the planning and carrying out of the Block Grant Program, or any other person who exercises any functions or responsibilities in connection with the program, shall have any personal financial interest, direct or indirect, in the use of the funds provided pursuant to this Agreement, and the Parties shall take appropriate steps to assure compliance. The Parties will insure that no contractor, subcontractor, contractor's employee or subcontractor's employee has or acquires any interest, direct or indirect, which would conflict in any manner or degree with the performance of his services.
- G. Insurance. The CITY will bear the risk of loss from fire, extended coverage, and will purchase and maintain property insurance on all affected CITY property. The CITY will bear the risk of loss from accidents coverable by owner's liability insurance and may, at its option, maintain such insurance. If applicable the CITY shall be required to maintain flood insurance.
- H. Nondiscrimination. The CITY and the COUNTY agree to comply with all Federal, State, and local laws prohibiting discrimination on the basis of age, sex, marital status, race, creed, color, national origin, familial status, or the presence of any mental or physical handicap. These requirements are specified in ORS chapter 659; Section 109 of the Housing and Community Development Act of 1974; Civil Rights Act of 1964, Title VII; Fair Housing Amendments Act of 1988; Executive Order 11063; Executive Order 11246; and Section 3 of the Housing and Urban Development Act of 1968; all as amended; and the regulations promulgated thereunder.

- I. Handicapped Accessibility. The CITY agrees that all improvements made under this Agreement shall comply with standards set for facility accessibility by handicapped persons required by the Architectural Barriers Act of 1968, as amended. Design standards for compliance are contained in 24 CFR 8.31-32 and the document entitled Uniform Federal Accessibility Standards published by HUD in April, 1988 as a joint effort with other Federal agencies.
- J. Nonsubstituting for Local Funding. The CDBG funding made available under this Agreement shall not be utilized by the CITY to reduce substantially the amount of local financial support for community development activities below the level of such support prior to the availability of funds under this Agreement.
- K. Evaluation. The CITY agrees to participate with the COUNTY in any evaluation project or performance report, as designed by the COUNTY or the appropriate Federal department, and to make available all information required by any such evaluation process.
- L. Audits and Inspections. The CITY will ensure that the COUNTY, the Secretary of HUD, the Comptroller General of the United States, or any of their duly authorized representatives shall have access to all books, accounts, records, reports, files, and other papers or property pertaining to the funds provided under this agreement for the purpose of making surveys, audits, examinations, excerpts, and transcripts.
- M. Acquisition. If completion of the project requires acquisition of any real property the parties agree to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended.

VI. Amendment

This Agreement may be amended at any time with the concurrence of both Parties. Amendments become a part of this Agreement only after the written amendment has been signed by both Parties.

VII. Term of Agreement

- A. This Agreement becomes effective when it is signed by both Parties.
- B. The term of this Agreement is a period beginning when it becomes effective and ending five (5) years after close-out of the COUNTY's participation in the entitlement CDBG program.
- C. This Agreement may be suspended or terminated prior to the expiration of its term by:

INTERGOVERNMENTAL AGREEMENT
Clackamas County and the City of Milwaukie
Page 6

1. Written notice provided to the COUNTY from the CITY before any materials or services for improvements are procured, or;
 2. Written notice provided by the COUNTY in accordance with 24 CFR 85.43, included as Attachment A, resulting from material failure by the CITY to comply with any term of this Agreement, or;
 3. Mutual agreement by the COUNTY and CITY in accordance with 24 CFR 85.44.
- D. Upon completion of improvements or upon termination of this Agreement, any unexpended balances of CDBG funds shall remain with the COUNTY.

CLACKAMAS COUNTY

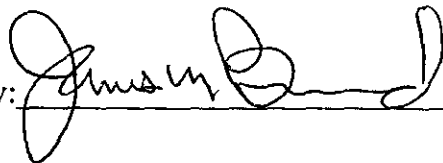
CITY OF MILWAUKIE

Chair: Bill Kennemer
Commissioner: Larry Sowa
Commissioner: Michael Jordan

Signing on Behalf of the Board



Irene Fischer-Davidson, Director
Department of Human Services

By: 

1/30/03
Date

1/11/03
Date

ATTACHMENT A

Excerpt from 24 CFR Part 85

§85.43 Enforcement.

(a) *Remedies for noncompliance.* If a grantee or subgrantee materially fails to comply with any term of an award, whether stated in a Federal statute or regulation, an assurance, in a State plan or application, a notice of award or elsewhere, the awarding agency may take one or more of the following actions, as appropriate in the circumstances:

(1) Temporarily withhold cash payments pending correction of the deficiency by the grantee or subgrantee or more severe enforcement action by the awarding agency,

(2) Disallow (that is, deny both use of funds and matching credit for) all or part of the cost of the activity or action not in compliance,

(3) Wholly or partly suspend or terminate the current award for the grantee's or subgrantee's program,

(4) Withhold further awards for the program, or

(5) Take other remedies that may be legally available.

(b) *Hearings, appeals.* In taking an enforcement action, the awarding agency will provide the grantee or subgrantee an opportunity for such hearing, appeal, or other administrative proceeding to which the grantee or subgrantee is entitled under any statute or regulation applicable to the action involved.

(c) *Effects of suspension and termination.* Costs of grantee or subgrantee resulting from obligations incurred by the grantee or subgrantee during a suspension or after termination of an award are not allowable unless the awarding agency expressly authorizes them in the notice of suspension or termination or subsequently. Other grantee or subgrantee costs during suspension or after

termination which are necessary and not reasonably avoidable are allowable if:

(1) The costs result from obligations which were properly incurred by the grantee or subgrantee before the effective date of suspension or termination, are not in anticipation of it, and, in the case of a termination, are noncancellable, and,

(2) The costs would be allowable if the award were not suspended or expired normally at the end of the funding period in which the termination takes effect.

(d) *Relationship to Debarment and Suspension.* The enforcement remedies identified in this section, including suspension and termination, do not preclude grantee or subgrantee from being subject to "Debarment and Suspension" under E.O. 12549 (see §85.35).

§85.44 Termination for convenience.

Except as provided in §85.43 awards may be terminated in whole or in part only as follows:

(a) By the awarding agency with the consent of the grantee or subgrantee in which case the two parties shall agree upon the termination conditions, including the effective date and in the case of partial termination, the portion to be terminated, or

(b) By the grantee or subgrantee upon written notification to the awarding agency, setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated. However, if, in the case of a partial termination, the awarding agency determines that the remaining portion of the award will not accomplish the purposes for which the award was made, the awarding agency may terminate the award in its entirety under either §85.43 or paragraph (a) of this section.



To: Mayor and City Council

Through: Mike Swanson, City Manager
Alice Rouyer, Director of Community Development and Public Works

From: Kelly Somers, Fleet/Facilities Manager

Subject: Operations Building/Rigid Steel Building Package

Date: March 23, 2004

Action Requested

Authorize the City Manager to approve a purchase order to Web Steel Buildings for a Rigid Frame Building Package, in the amount of \$43,801.

Background

City Council has authorized staff to come up with the most cost effective method for construction of a new Public Works Operations Building. This will provide new quarters for approximately 20 staff members who have been working out of a temporary trailer without plumbing for the past 6 years. In order to reduce costs, last summer Council authorized the City to act as its own general contractor for this project.

The first phase of the project will be to purchase the exterior steel building package and have it delivered on site before June 30, 2004. The proposed building will be 40 feet wide by 70 feet in length comprised of a rigid steel frame exterior. The interior will be wood framed with finished offices, restrooms and dressing rooms. The building will be constructed with a second floor that will be available for future office space as needed. This building will be built using materials that will allow for low maintenance costs in the future.

The second phase of this project will take place at the beginning of fiscal year 2004-2005. Contractors will be hired to install building footings, pour concrete floors, erect the steel building package, install the plumbing, electrical, heating cooling and interior finish work to complete the project.

The funding for this building will be a four way split from the operating budgets of Street, Water, Storm Drainage, and Sanitary Sewer.

Concurrence

The Director of Community Development and Public Works and City Manager support this project.

Fiscal Impact

The funds for this project will come from the operating budgets, split evenly between Street, Water, Storm/Sewer, and Sanitary Sewer.

Work Load Impacts

These projects are included in the annual work programs for Facilities Staff.

Alternatives

The City Council has the following decision making options:

1. Authorize City Manager to sign purchase order.
2. Delay this project until a later date.
3. Take no action at this time.



TO: MAYOR AND CITY COUNCIL
FROM: MIKE SWANSON, CITY MANAGER
DATE: MARCH 26, 2004
SUBJECT: AN ORDINANCE AMENDING THE LOW INCOME UTILITY RATE PROVISIONS OF THE MUNICIPAL CODE

Action Requested

Adopt an ordinance that deletes the provision of the Code requiring that the general fund subsidize the sewer fund for losses incurred by the low income utility program and providing that sewer rates be established at a level sufficient to cover those losses.

Background

Milwaukie Municipal Code Section 13.20.010 creates a low income rate for the City's water and sewer customers.

Milwaukie Municipal Code Section 13.20.020 presently reads as follows:

Water charges to nonqualifying users shall be established at a level sufficient to cover revenue losses resulting from reduced water rates to qualifying applicants. Subsidies from the general fund shall be established at a level sufficient to cover revenue losses resulting from reduced sewer rates to qualified applicants.

In discussions with staff I learned that the sewer fund subsidy was established during a time of financial uncertainty for that fund. The provision was adopted by the City Council in 1979. The sewer fund is not presently experiencing financial distress. On the other hand, the general fund is the focus of financial pressures.

The budget contains an annual \$40,000 general fund appropriation to comply with the subsidy requirement. However, funds are not presently transferred since the sewer fund is in balance with sufficient annual reserves. Thus, the annual appropriation does not appear necessary, and the requirement that it be established should be eliminated. The proposed ordinance accomplishes that by

placing the sewer fund in the same position as the water fund with respect to covering the low income utility rates. Adoption at this time will not require a rate adjustment because of low income utility rates.

Concurrence

The Director of Community Development, Finance Director, City Attorney, and City Manager concur with this proposed action.

Fiscal Impact

There is no fiscal impact as a result of this proposed action.

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON,
AMENDING SECTION 13.20.020 RELATING TO FINANCING OF LOW INCOME
UTILITY PROVISIONS OF THE CODE BY DELETING THE REQUIREMENT THAT IT
BE FINANCED FROM THE GENERAL FUND**

WHEREAS, Milwaukie Municipal Code Section 13.20.010 establishes low income rates for water and sewer service; and

WHEREAS, Milwaukie Municipal Code Section 13.20.020 provides that water rates be set at a level sufficient to fund the low income rates while a subsidy from the general fund is required to fund losses arising from low income rates within the sewer fund; and

WHEREAS, the general fund subsidy was created during a time when the sewer fund was not financially stable;

NOW, THEREFORE, THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. Milwaukie Municipal Code Section 13.20.020 is amended to read as follows: "Water and sewer charges shall be established at a level sufficient to cover revenue losses resulting from utility customers qualifying for a reduced rate pursuant to Milwaukie Municipal Code Section 13.20.010."

Read the first time on _____, and moved to second reading by _____ vote of the City Council.

Read the second time and adopted by the City Council on _____.

Signed by the Mayor on _____.

Jim Bernard, Mayor

ATTEST:

APPROVED AS TO FORM:
Ramis, Crew, Corrigan & Bachrach, LLP

Pat DuVal, City Recorder

City Attorney



Ledding Library Board February minutes

6:30 PM February 23, 2004
Ledding Library

Meeting called by:

Tom Hogan

Attendees:

Attendees: Mark Docken, Pat Healy, Tom Hogan, Pat Lent, Sue Trotter, Michael Welling, and Ed Zumwalt.

Staff: Cynthia Sturgis

Agenda topics

Approval of minutes

Approved as written.

Librarian's report

Children's librarian Kim Carroll has resigned to accept a full time position with the Ft. Vancouver Regional Library. Her position has been advertised, and interviews of applicants will take place in early March.

Carol Kay from the Friends has reported that the donation jar on the circulation desk (Mark Docken's suggestion) has netted over \$500 for 2003. The Friends have contributed \$1500 toward the expenses of a voter survey concerning the proposed library levy in November.

The library budget presentation is scheduled for Monday, March 29.

2004-05 budget

Chair. Tom Hogan has received suggestions for his budget talking points from Sue and Pat Healy. Board members discussed additional topics to include. Tom also plans to contact the city manager to discuss the charges for general administrative costs.

Plans were made to invite Council members to the library for an upcoming First Saturday program to give them a tour and discuss current projects and issues.

Facility planning report to Council

Pat Healy and Cynthia will present a report to Council from the Facility Planning Committee on March 16th. The packet will include the architect's report and cost estimate, the thank you letter from Tom, copies of the floor plan and footprint, and the estimate for the design phase. Board members suggested adding Dallas Schaffer's space needs report and the survey of the Ledding property.

WeLL

Tom and Michael reported that the agreement with the consultant has been finalized for the voter survey and the PAC has been set up.